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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
No. 04-CV-10699-RCL

STEVEN RAMSEY, *
Plaintiff, *
V. *
JAY CASHMAN, INCORPORATED, *
Defendant. *

DEPOSITION of STEVEN R. RAMSEY, a
witness called on behalf of the Defendant,
pursuant to the applicable provisions of the
Federal Rules of Civil Procedure, before
CATHERINE L. ZELINSKI, a Certified Shorthand
Reporter and Notary Public, in and for the
Commonwealth of Massachusetts, at the Law
offices of Holbrook and Murphy, 150 Federal
Street, Boston, Massachusetts, on Wednesday,
October 20, 2004, commencing at 12:00 p.m.

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1 what pier to be at and who to meet. And
2 that's what I did. I went over and saw Rick
3 Hughes and he introduced himself and I
4 introduced myself and we went to work.

5 Q. And what vessel were you assigned to?

6 A. The Wood I and the Wood II. There were two
7 different ones. We worked on both of them.

8 Q. What was your position that you were hired
9 for?

10 A. I was hired for a deck hand.

11 Q. On those vessels?

12 A. Right.

13 Q. Do you have to fill out any paperwork for
14 Cashman when you show up to work there?

15 A. No, it's all -- I never did. I mean, you
16 have to fill out your form, how much taxes
17 you want taken out and that type of thing.

18 Q. So there's no application --

19 A. No.

20 Q. -- that you applied --

21 A. No.

22 Q. Let me just finish for her.

23 A. Sorry.

24 Q. That's okay. I told you I'm the worst one at

1 that.

2 You don't fill out an application for
3 Cashman?

4 A. No.

5 Q. You're just assigned through the union hall?

6 A. Right.

7 Q. You show up on day one, you fill out some tax
8 info?

9 A. Right.

10 Q. Did you fill out anything else?

11 A. The shop steward brings it to you. You have
12 a shop steward on all your jobs and he brings
13 it to you and you fill out your paperwork and
14 that's it.

15 Q. And that's what I'm asking, what does that
16 paperwork consist of?

17 A. Well, your social security number, your date
18 of birth, so they can pay you, of course.

19 Q. Right.

20 A. And what you want deducted for taxes and
21 that's it.

22 Q. Do your benefits change from job to job or
23 are they --

24 A. No.

1 Q. Stay the same?

2 A. It's the same.

3 Q. Through the year?

4 A. Benefits through the year stay the same.

5 Q. So you showed up on day one and you met with
6 Mr. Hughes?

7 A. Right.

8 Q. And you were assigned to be a deck hand?

9 A. Right.

10 Q. Aboard what vessel?

11 A. The first job was -- they called it
12 Mr. Barge.

13 Q. Mr. Barge?

14 A. Right.

15 Q. And that's a barge?

16 A. It's a barge, yeah. It has wenches on it
17 and we were laying cable from one island to
18 the next.

19 Q. In Boston Harbor?

20 A. Yes.

21 Q. And you assigned a -- does the crew on that
22 vessel change during the course of the job?

23 A. No, we had the same crew.

24 Q. So it's the same crew?

1 A. Right.

2 Q. How did that go, any problems?

3 A. No.

4 Q. Up until the time you were injured, any
5 problems working for Cashman?

6 MR. ROSENTHAL: Objection to form.

7 A. No.

8 Q. Up until the time you were injured, did you
9 have any complaints working for Cashman?

10 A. No.

11 Q. Up until the time you thought you were
12 injured, did you think they were an unsafe
13 employer?

14 MR. ROSENTHAL: Objection to the
15 form.

16 A. No. I'd go back to work right now if they'd
17 let me.

18 Q. So you were first hurt in 2001 working for
19 Cashman?

20 A. April 5, 2001.

21 Q. What vessel were you on at that time, if any?

22 A. We were working on the Wood I.

23 Q. What kind of vessel is the Wood I?

24 A. It's a dredge. It has a crane on it.

1 Q. It's not one of these self-propelled dredges,
2 is it?

3 A. No.

4 Q. So when you say a dredge, what do you mean --

5 A. It has a wench system and spuds. You can
6 move forward and back on your own. You don't
7 need --

8 Q. Using the spuds?

9 A. Using the wenchers. You have cables that run
10 out with anchors. And you have spuds that
11 keep you in place while you're moving the
12 crane back and forth.

13 Q. So there's no motor or engine on the wood
14 I --

15 MR. ROSENTHAL: Objection.

16 Q. -- that propels the vessel through the water?

17 A. Well, there is because there's wenchers that
18 run the wires on the anchors and I go back
19 and forth on my own. I have no boat to do it
20 with.

21 Q. I hear you.

22 A. Okay.

23 Q. Tell me how it works just for the record.

24 A. You have wenchers with cables and you have

1 anchors on them and you spread them out 500
2 feet away from you so you can go ahead. And
3 you go also in the back with wench, right,
4 that you move back and forth up in the house
5 on the dredge.

6 Q. So you have a wench aboard the barge, right?

7 A. You have a set of wench, yeah.

8 Q. I just want to get down on the record. I
9 know it's a little tough to explain this --

10 A. Yeah.

11 Q. -- exactly how these vessels can move.

12 A. Yeah.

13 Q. So the wench, right? You --

14 A. I can wind the cable up and make myself go
15 forward or I can unwind the cable and wind
16 the rear spools and go up and go backwards.
17 I can go backwards and forwards.

18 Q. That's about manipulating the wench?

19 A. Wench, right.

20 Q. And the wench is like a wire rope?

21 A. Right, a bunch of wire cable.

22 Q. Wear cable?

23 A. Right.

24 Q. And on the other end of the cable is an

1 anchor?

2 A. Right.

3 Q. That's in the water.

4 A. Right.

5 Q. And you --

6 A. You work to it.

7 Q. By pulling in on the wench?

8 A. Right.

9 Q. Or the reverse to go reverse?

10 A. Right.

11 Q. So the barge is capable of movement in the
12 water?

13 A. Right.

14 Q. But you couldn't go to, say, New York that
15 way?

16 A. No.

17 Q. To go to, say, New York or another job site a
18 tugboat would --

19 A. Right, you have to be towed, right.

20 Q. And that's how it works, the tug tows the --

21 A. Right.

22 Q. -- the wood I?

23 A. Yeah. We towed it there.

24 Q. Well, that's what I was going to ask you

1 next. How you got to the job site originally
2 is a tugboat would tow the wood I to where
3 you were working?

4 A. Right.

5 Q. But in the work site itself, you can move the
6 barge as you've described?

7 A. Right.

8 Q. How long did that job take? How long had you
9 been working there before you got hurt?

10 A. I -- a couple of months maybe. Four. I
11 can't remember.

12 Q. How would you get to the job site each day?

13 A. We would drive from the hotel. Oh, you mean
14 out on to the water?

15 Q. Yeah.

16 A. I'm sorry.

17 Q. We'll take --

18 A. On the gunny. That's a tugboat.

19 Q. So the tugboat would take you from the
20 dock --

21 A. To the dredge.

22 Q. Everyday?

23 A. Right.

24 Q. And you'd return home every evening?

1 A. Right.

2 Q. There was never a time you were out there
3 overnight?

4 A. No, no.

5 Q. So you were staying in a hotel at the time?

6 A. Right.

7 Q. Where were you staying?

8 A. It was in Barnegate Light, Barnegate, New
9 Jersey. I can't remember the name. Oh,
10 yeah, it's the Quarter Deck is the name of
11 it, the hotel I stayed at.

12 Q. Where was the job site?

13 A. Barnegate Light in New Jersey.

14 Q. What were you doing precisely?

15 A. We were putting stone around the lighthouse
16 because the lighthouse was caving in in the
17 water.

18 Q. So you were working from the barge to do
19 that?

20 A. Right.

21 Q. So every morning you'd drive from the hotel
22 to the dock?

23 A. Correct.

24 Q. Get in the tugboat and the tugboat would take

1 you out to the wood I?

2 A. Right.

3 Q. And you would work on the wood I doing the
4 job around the lighthouse?

5 A. Right.

6 Q. And then the tugboat would come and get you
7 at quitting time?

8 A. You have to have a boat standing by Coast
9 Guard regulations.

10 Q. Okay.

11 where exactly would the tugboat be?

12 A. Right along the port side.

13 Q. Can you describe for me specifically the work
14 that you were doing?

15 A. I was running the wenchies. I was a mate
16 engineer. I did the mate work which is
17 running the wenchies and the engineer, I took
18 care of all of the engines on the rig.

19 Q. Okay.

20 A. And then I would have to run the little boat
21 to run back and forth to pick up any crew
22 members that wanted to come. Or we have
23 safety guys that have to come out, and I
24 would go out and pick them up and bring them

1 back. Or if the captain or superintendent
2 wanted to come out, I would have to pick them
3 up.

4 Q. And that's on the gunny?

5 A. No, that's on the little skiff it's called.

6 Q. Is there a name for the skiff?

7 A. No, it's a skiff.

8 Q. Did you tell me that the wood I is a crane
9 barge?

10 A. Yes.

11 Q. So there was someone there operating the
12 crane?

13 A. Right.

14 Q. Who was that?

15 A. Joseph Knowlton. It's K-n-o-w.

16 Q. He's the crane operator?

17 A. Right.

18 Q. Is there someone that tags the crane, signals
19 the train -- crane?

20 A. I'm the guy who tells him when to start
21 loading the barge and, yeah, which is the
22 mate.

23 Q. So you use these hand signals to --

24 A. I have a radio and the hand signals, yeah.

1 If I'm on the deck and he can't hear me
2 because the engine's running, I give him hand
3 signals.

4 Q. And take me, someone who's never been out
5 there and never seen it, take me through your
6 day, you know, how does that work? Are
7 you --

8 A. You would go on board and where I'm the
9 mate, I would have to go in and start up all
10 the engines because I was also the engineer.
11 I'd have to start up all the engines, get all
12 the air pressure going.

13 Q. These are the wenches?

14 A. The wenches and the crane. I would have to
15 start the crane and the wenches and get all
16 the pressure up before we do anything. And
17 let him know when we can do anything. And he
18 would load up the rock on the side of the
19 barge.

20 Q. And how would you let him know?

21 A. Usually he would be down with me. He was
22 having his coffee and I would tell him go
23 ahead, you have pressure.

24 Q. And do you have any responsibilities with

1 regard to the crane after he begins --

2 A. No.

3 Q. -- the work?

4 A. No.

5 Q. You don't direct him or anything like that?

6 A. No, no.

7 Q. Does he need anybody to direct him?

8 A. No, he has a roped off area. No one's
9 allowed near it.

10 Q. So he's just doing his thing with the crane?

11 A. He's just going, right.

12 Q. Well, who else is on the barge during these
13 operations?

14 A. You want names?

15 Q. Give me positions and then names.

16 A. Positions, okay. Kenny King, he was the
17 captain.

18 Q. And these names that you're giving, are these
19 -- Cashman uses these names or are these the
20 union names?

21 A. Some of them are.

22 MR. ROSENTHAL: Objection to form.

23 A. Some of them are Cashman guys I guess. Some
24 of them are union guys. Is that what you

1 mean?

2 Q. Like on a Coast Guard ship, you know, like a
3 merchant marine?

4 A. Right.

5 Q. You've got people with positions and are
6 recognized by the Coast Guard?

7 A. Right.

8 Q. So you're saying he's the captain --

9 A. Right.

10 Q. -- of the barge?

11 A. He's the captain of the barge.

12 Q. And I'm just wondering if that's what Cashman
13 calls him as well, the captain?

14 A. Right, they sent him as a captain.

15 Q. And let me ask you, are all the guys over
16 there union guys?

17 A. Yeah, I didn't meet any that weren't. There
18 are some company guys, but they don't work
19 with us. Company guys aren't allowed to work
20 with our equipment.

21 Q. That's what I was going to say. You wouldn't
22 work alongside a non union man --

23 A. No.

24 Q. -- would you?

1 A. No.

2 Q. Or a woman?

3 A. Right.

4 Q. So Kenny King was the captain?

5 A. Yeah. And --

6 Q. And he's the guy hired through the union just
7 like you were, right?

8 A. Yes.

9 Q. And generally speaking, what does he do on
10 the barge?

11 A. Tell me what to do. He tells everybody what
12 to do. I mean, he would try to help out when
13 he can.

14 Q. Right.

15 A. I mean, he does a lot of paperwork I'm sure.
16 I've never been a captain, I don't know.

17 Q. So he's not a laborer?

18 A. He helps.

19 Q. Okay.

20 A. Yep, he helps when he can.

21 Q. who else we got?

22 A. You got the Frankie Pilate. And he's a
23 welder.

24 Q. what would he do on the barge?

1 A. welding.

2 Q. How much welding needed to be done?

3 A. He did welding everyday.

4 Q. For what?

5 A. well, he always ended up with busted spud
6 wells or a bit that's going to come apart so
7 you got to weld it.

8 Q. Oh, this is for maintenance of the barge?

9 A. Maintenance, constant.

10 Q. That was his job?

11 A. His job, right. weld all day.

12 Q. So he's not directly involved in these
13 repairs on the lighthouse?

14 A. Yeah, well, he -- when a barge would come
15 alongside, he's got to be there to help grab
16 lines. You know, it takes more than one guy
17 to tie up a barge.

18 Q. You're saying when another barge would come
19 alongside your barge?

20 A. Right. When my barge would come alongside a
21 flat barge to load the stone on, we would
22 need guys to, you know, tie up the barge
23 alongside of us so the operator can load it.

24 Q. So he'd help out with that?

1 A. Right.

2 Q. Who else would help out with that?

3 A. The guys on the tugboat gunny, they would
4 help.

5 Q. Who else is on the barge working with you?

6 A. That's -- well, on this crew, that was it.
7 Usually there would be two or three more
8 guys, but that's it. I did the mate and the
9 engineer's job.

10 Q. So on this particular job, it was three of
11 you that were assigned to the barge?

12 A. Three of us that were always on the barge,
13 right.

14 Q. How did you get along with these other guys?

15 A. I got along fine with them.

16 Q. No problems with them?

17 MR. ROSENTHAL: Objection to form.

18 A. I mean, we had our arguments, you know, just
19 like anybody else. You basically live with
20 these people for months on end.

21 Q. Fair to say anything they did or didn't do
22 caused your accident?

23 MR. ROSENTHAL: Objection.

24 A. Well, I mean, yeah, I don't know. I don't

1 know what you mean by that question. They
2 didn't go out there and sink the boat on me.

3 Q. Let me ask you a little bit more about what
4 you actually did on the barge.

5 So as the engineer, you were
6 responsible for the machinery on the barge?

7 A. Right. All the engines.

8 Q. How much of your time did that take up?

9 A. Four or five hours a day.

10 Q. Okay.

11 A. Some days more. Some would break, of
12 course. I'd have to get it fixed.

13 Q. What other things did you do on the barge?

14 A. Repairs to the bucket that picks up the
15 rock. I fueled everything. I had to take
16 care of all the fuels. Run the wenchies, to
17 move the barge back and forth.

18 Q. How much of your time would those tasks take
19 typically?

20 A. Eight or ten hours a day you worked,
21 depending on the day.

22 Q. And you mentioned that Frank would handle
23 lines if another barge came alongside?

24 A. Yeah.

1 Q. Did you have to do that as well?

2 A. Oh, yeah, absolutely.

3 Q. How often would that occur?

4 A. Usually twice a day. You'd load one and
5 we'd take it away on the tugboat. And then
6 he'd bring another one. You'd load two, try
7 to load two a day and you'd get out there and
8 dump two, bring it along.

9 Q. So this is the barge that's the receptacle
10 for the stone?

11 A. Right.

12 Q. And those barges are towed by --

13 A. A tugboat.

14 Q. And that's a separate tugboat than the gunny
15 that's --

16 A. No, same tugboat.

17 Q. The gunny would be --

18 A. They would set up an anchor system. Put the
19 barges out on an anchor. And if it was too
20 far, you know, go pick up one and bring it in
21 and then take the loaded one and bring it
22 back out just to complete cycle all day?

23 Q. And that's when you would assist in --

24 A. Grabbing lines, right.

1 Q. Have you ever been in the merchant marine?

2 A. No.

3 Q. Have you ever held a Coast Guard license?

4 A. No.

5 Q. You never worked as a captain?

6 A. I run tugboats, but I don't need to have a
7 license. As long as there's a captain on
8 board with a license, I can run the boat.

9 Q. And who have you run tugboats for?

10 A. Jay Cashman. I worked with a couple of
11 captains for him.

12 Q. Let's get to the day where you got hurt. Do
13 you remember what day of the week it was?

14 A. I thought it was Tuesday, but it's not. I
15 believe it's Thursday, I believe it was. I'm
16 not sure.

17 Q. Did you have set hours working there?

18 A. Yeah, you would show up at eight -- seven in
19 the morning.

20 Q. What was quitting time?

21 A. Whenever we got done unloading the barge.

22 Q. What time would that typically be?

23 A. Anywhere from five to seven.

24 Q. P.M.?

1 A. Five p.m., right. Five p.m. to seven p.m.

2 Q. What time of day did you get hurt at?

3 A. Between -- I can't really -- between ten and
4 eleven.

5 Q. In the morning?

6 A. Right, a.m.

7 Q. So let me ask you this: You showed up for
8 work at seven a.m. --

9 A. Right.

10 Q. -- in your typical fashion?

11 A. Yes.

12 Q. Nothing special about that day, was there?

13 A. No.

14 Q. Up until at least you got hurt?

15 A. Right.

16 Q. The tugboat takes you out to the barge?

17 A. Right.

18 Q. And you begin starting up the crane?

19 A. Right. I fuel everything before I start an
20 engine. I fuel the crane, then I fuel mine
21 -- I start the crane so he can get going. I
22 start him up and then I fuel my wenches and
23 anything that needs fuel. And then I start
24 my stuff up to get the air going and then you

1 wait and you start, you know, you start your
2 work.

3 Q. What did your work consist of that day after
4 you did those tasks?

5 A. That day we were talking. They're either
6 called shanks for the bucket and we were
7 cutting them off, using a torch. Cutting the
8 shanks off, getting them ready for the new
9 shanks and new bolts we were getting in.

10 Q. And what specifically is a shank?

11 A. It holds the teeth onto a bucket.

12 Q. And you were cutting these with a torch?

13 A. With a torch, right.

14 Q. And I'm just trying to get a feel for your
15 day then. How long does it take to get the
16 machinery up and running?

17 A. As long as it's not too cold out, 35, 40
18 minutes roughly.

19 Q. So on this day what time approximately did
20 you begin cutting the shanks with the torch?

21 A. Probably about 8:30, 9:00 we were cutting.

22 Q. Okay.

23 A. We had the new shanks and new bolts coming.

24 So I was called to go do that, to go get them

1 on the skiff.

2 Q. You were called on the radio?

3 A. I was called on the radio. I didn't take
4 the call. It was Kenny King that took the
5 call.

6 Q. Okay.

7 A. I went -- I had the welder. He cuts. He's
8 in charge of all that. He goes out and help,
9 you know, get the job done. And --

10 Q. Well, let me just slow it down.

11 A. I know.

12 Q. It's difficult when you're not there to
13 visualize the whole thing.

14 A. Right.

15 Q. So Kenny King takes the call on the radio,
16 right?

17 A. I believe it was either his radio or Nextel.
18 But, yeah, he was the one that told me.

19 Q. Who would have been contacting him?

20 A. His last name is Weber. He's the
21 superintendent, I can't remember his name.

22 Q. But he's back on land?

23 A. The superintendent is, yes. The captain was
24 on board.

1 Q. What was the message from shore?

2 A. He told me that they were going to get the
3 parts and they'd let me know when they came
4 in to get the parts.

5 Q. Okay. So on shore they were getting some
6 parts?

7 A. Right.

8 Q. And that they were going to contact you when
9 they came in?

10 A. Right, to pick them up.

11 Q. And the parts specifically were what?

12 A. They were shanks and nuts and bolts.

13 Q. For the bucket?

14 A. For the bucket.

15 Q. At approximately what time did the call come
16 in from shore that the parts were available?

17 A. They hadn't. I had gone out to drop off the
18 safety man, he was going to get lunch.
19 Because it takes a while to get him to shore.
20 And then for him to drive 30 minutes to go
21 buy lunch because we were out in the boonies.
22 And then as I was coming back, I wish I could
23 remember his name. Anyway, the
24 superintendent waved me over and said, I have

1 the parts you need. So I went over to the
2 shore and picked them up.

3 Q. Okay. So just to go through this slowly.
4 When the call came in from shore that Kenny
5 King or whoever took, you weren't on the
6 barge at that time?

7 A. I was on the barge, but I didn't take the
8 call. I was outside cutting.

9 Q. But at some point irrespective of the call,
10 you went to for a lunch run?

11 A. Right.

12 Q. And mentioned the safety man?

13 A. Right.

14 Q. Who is that?

15 A. I don't know his name.

16 Q. Is that someone who works on the barge?

17 A. He doesn't work on the barge. He just
18 stands by to make sure no one does anything
19 bad.

20 Q. He'd probably call it work, though.

21 A. Yeah, right, work, yeah.

22 Q. Is he a union guy, too?

23 A. No.

24 Q. Is he a Cashman guy?

1 A. Cashman hires out safety people, right.

2 Q. He's just there to watch and make sure no one
3 does anything unsafe?

4 A. Yeah.

5 Q. Is that the extent of his job?

6 A. That's it.

7 Q. How do you get that job?

8 A. I don't know. I asked him.

9 Q. He wasn't telling I bet.

10 A. No.

11 Q. The people who at any time were present on
12 the barge on the date that you -- of your
13 injury, you told me all of them. Are there
14 any other people?

15 A. They weren't on the barge, they were on the
16 boat. They weren't actually on the barge.
17 They were other guys and I don't know all
18 their names.

19 Q. The safety man is on the barge?

20 A. The safety man wasn't -- he was on the
21 barge, yeah. That was my fault. I forgot
22 his name. I hardly ever saw him. I can't
23 remember his name. Yeah, I brought him to go
24 do his lunch thing.

1 Q. And I'm just a little uncertain of the
2 chronology. When you took him in the skiff
3 to go get lunch?

4 A. Right.

5 Q. Where is the skiff located?

6 A. It was on the starboard side of the dredge.

7 Q. Tied up alongside the dredge?

8 A. Right.

9 Q. And that's there on a daily basis?

10 A. It's always there, yeah.

11 Q. What's the purpose of the skiff?

12 A. To run people back and forth like I told
13 you.

14 Q. Like little errands?

15 A. Right.

16 Q. But you don't use that skiff to get out to
17 the barge?

18 A. To work.

19 Q. In the morning?

20 A. No, no.

21 Q. Why is that?

22 A. It's too small for that many people to get
23 on it. You're talking -- I mean, it has four
24 inches of free board and you don't put that

1 many guys on it, you know.

2 Q. Sure, okay.

3 so the skiff remains tied up alongside
4 the dredge and it's there for basically
5 errands?

6 A. Right. The captain did use it quite a bit.
7 He used it to go back and forth on his own,
8 which is fine. He's allowed to do that.
9 He's the captain.

10 Q. Sure.

11 So let me ask you this: Did you have
12 to get permission to go in the skiff to take
13 the safety man for lunch?

14 A. No, no.

15 Q. So you can kind of come and go as you please?

16 A. If I have errands to run, that's what we do,
17 yeah. Everyone makes up a list of what they
18 want for lunch and they give it to one guy
19 who isn't doing anything.

20 Q. Which is the safety guy?

21 A. Which is the safety guy. And he gets lunch
22 for everything -- everybody.

23 Q. And you give him money?

24 A. Right.

1 Q. So when you left with the safety man on the
2 skiff, had you already received the radio
3 message about the parts?

4 A. I hadn't, Kenny King had. As I said, that's
5 what he told me he had. He had received.

6 Q. And he just kind of missed you?

7 A. No, he told me he was going to be getting --
8 they weren't there yet. He was getting parts
9 in, so when he comes to the shore, go over
10 and get the parts. And I said, no problem.
11 And I kept doing what I was doing.

12 Q. So let me just back up a bit then.

13 You had been at this particular job
14 site for months before you got hurt?

15 A. Yeah, a couple of months anyway, yeah.

16 Q. How often did you use the skiff before you
17 got hurt?

18 A. Everyday. A couple of times a day.

19 Q. Before the time that you got hurt, did you
20 have any problem or complaint with the skiff?

21 A. Not me. It had sunk twice. But not by me.
22 It was left on the dock and they left it over
23 the weekend and it had rained and it filled
24 up and it sank.

1 Q. Okay.

2 A. And they said there was a problem with it.

3 And so we yanked the engine off and they took
4 it to some marina and had it fixed.

5 Q. But as far as you operating the skiff before
6 you got hurt, did you have any problems or
7 complaints?

8 A. No.

9 Q. It worked fine as far as you were concerned?

10 A. Right, until it sank. Then they went and
11 had it fixed.

12 Q. And it sank because it got filled with water?

13 A. Right. And the village pump wasn't working.

14 Q. That didn't have anything to do with your
15 accident though?

16 A. No.

17 Q. And once they fixed it, where did they fix it
18 do you know?

19 A. I don't know the name of the place.

20 Q. It was in New Jersey though?

21 A. Right.

22 Q. And after they fixed it, it was working fine?

23 MR. ROSENTHAL: Objection as to
24 form.

1 A. I hadn't been on it.

2 Q. When in relation to when you got hurt, when
3 did it go in for repairs?

4 A. It had come back like two days and then we
5 finally got it back in the water, and you
6 can't just pick it up and just steel a skiff.
7 And we had a front end loader and put it in
8 the water for us on that day and then I took
9 it.

10 Q. So in relation to when you got hurt, when did
11 the vessel sink?

12 A. A couple of weeks before I guess.

13 Q. And it took that long to get it back into
14 commission?

15 A. It took a while I guess, yeah. I don't know
16 what they did.

17 Q. In the meantime, were you using a different
18 skiff?

19 A. No, we were using the tugboat which we
20 didn't like to do. You would have to use the
21 tugboat to go out the buoys, with the anchors
22 on them. But you have to make sure you have
23 lights on them so no boats run into them or
24 cross your anchors.

1 Q. And you can't operate the tugboat unless
2 there's a captain on board?

3 A. Right.

4 Q. A captain who is recognized by the United
5 States Coast Guard as a cap --

6 A. Right. He has to be a captain, right.

7 Q. And when we say that, we mean a captain's
8 license from the United States Coast Guard?

9 A. Right.

10 Q. Not like just like a guy on a fishing boat
11 can call himself a captain with no papers.

12 A. Right.

13 Q. You would need to have papers?

14 A. Right.

15 Q. Who would operate the tugboat while the skiff
16 was out of commission?

17 A. I don't know his name. He's the captain of
18 the boat.

19 Q. Oh.

20 A. There's a captain on the tug and a deck hand
21 on that. I know the deck hand's name, but I
22 don't know the captain's name.

23 Q. What was the deck hand's name?

24 A. David Bell.

1 Q. what did you say, the skiff sank twice or
2 once?

3 A. Twice.

4 Q. Same reason both times?

5 A. Yeah, the second time I don't know why.
6 They didn't tell me. I don't know.

7 Q. When was the first time that it sank?

8 A. I don't even know. A couple of weeks into
9 the job.

10 Q. And then you got it -- and then did it need
11 repairs after that?

12 A. No, it didn't. The engine did not submerge
13 at that time.

14 Q. So the first time the skiff sank, as a result
15 of that, the skiff wasn't taken out of
16 service?

17 A. Right. We just pumped it out. We just
18 pumped it out and continued using it.

19 Q. It had no problems?

20 A. No, there was an outboard engine and it
21 didn't get submerged.

22 Q. And then the second time it sank was several
23 weeks before your incident?

24 A. Yeah, maybe two weeks.

1 Q. And on that occasion the engine got
2 submerged?

3 A. The -- yeah, the stern line had propped so
4 it went down to the bottom.

5 Q. When you say the stern line had popped, what
6 do you mean by that?

7 A. It broke.

8 Q. The line parted?

9 A. Right.

10 Q. The engine got submerged?

11 A. Right. The stern sunk to the bottom.

12 Q. Was that the result of some sort of storm or
13 something like that?

14 A. Yeah, there was a bad storm. It was
15 actually snow and ice.

16 Q. Who is responsible for securing the --

17 A. Kenny King.

18 Q. -- the skiff?

19 A. Kenny King.

20 Q. You're saying responsible because he's the
21 captain with overall responsibility?

22 A. No, because if it were me, we would have put
23 it up on the deck of the barge over the
24 weekend. Just pick it up with the crane,

1 easy enough to do. But he wanted to use it
2 to go back and forth. He would come in
3 before us and do his own little thing and he
4 would leave after us and do his thing. I
5 don't know what he did because I wasn't
6 there.

7 Q. Have you spoke then to him about your
8 incident at all?

9 A. I haven't.

10 Q. Has someone on your behalf talked to him or
11 spoken to him?

12 A. I'm not sure.

13 Q. So then on the second sinking of the skiff, I
14 mean what happened, you showed up the next
15 morning and saw that the thing was on the
16 bottom?

17 A. We showed up Monday, we showed up Monday
18 morning back from home and it was on the
19 bottom. So we just went to work on the
20 tugboat, and the captain -- and I don't know
21 who else, they took it out and said they were
22 taking it to the shop.

23 Q. For repairs?

24 A. Right.

1 Q. During the time that you're working, you're
2 staying in New Jersey through the week?

3 A. Right.

4 Q. But returning home to the Cape on the
5 weekends?

6 A. Right.

7 Q. And it's a five day a week --

8 A. Right.

9 Q. -- job?

10 A. Yes.

11 Q. So you show up Monday and the skiff's on the
12 bottom. You take the tug out to the barge
13 and begin work same as you always do?

14 A. Right.

15 Q. And who took the -- who handled the skiff?

16 A. Kenny King, the captain.

17 Q. Were you able to raise the vessel?

18 A. They did it, I don't know. They must have
19 used the front end loader they had on shore.
20 I wasn't there. I don't know.

21 Q. Did they immediately take the skiff in for
22 repairs, do you know?

23 A. I don't know.

24 Q. Do you know where they took the skiff?

1 A. They put it up in the parking lot. I don't
2 know where they took it to to have it
3 repaired.

4 Q. But you know they took it somewhere?

5 A. Right.

6 Q. Someplace that specializes in that sort of
7 thing?

8 A. I would imagine so, yeah.

9 Q. Now, did you guys attempt to work on it
10 yourselves?

11 A. No.

12 Q. I imagine some of you guys are pretty handy
13 in regard to that?

14 A. Right. No one asked us to. They just took
15 it for someone to take care of it.

16 Q. And they took it to some engine place?

17 A. They must have, yeah. I know they did. I
18 just don't know which one it was.

19 Q. How do you know that they did?

20 A. Because they told us they did and they were
21 going to pick it up some day, I can't
22 remember, and that was that.

23 Q. So while the skiff's out of service, you're
24 using the tugboat to run around, get lunches,

1 that sort of thing?

2 A. Right.

3 Q. And that's not the way you guys wanted to do
4 it, right?

5 A. No.

6 Q. Why is that again?

7 A. You want to leave the tug beside the dredge
8 at all times if you can. I mean, there are
9 certain times you have to move the dredge --
10 I mean, move the tugboat.

11 Q. The tugboat?

12 A. Right. To move the barges and stuff, yes.

13 Q. Why is that, that you want to leave the --

14 A. If you pop a cable or something, you want
15 that boat to be there to stop you from
16 crashing into the rocks because that happens.

17 Q. Does the tug move the barges on the job site
18 at all, or is that done by the --

19 A. The tug moves the barges, but not the
20 dredge. The dredge is -- we move on our own.
21 Like I told you about the wires.

22 Q. So you got the skiff back the morning that
23 you got hurt?

24 A. No, I think it was there for a couple of

1 days.

2 Q. Oh, okay. But you didn't have opportunity to
3 use it?

4 A. Right, no, no. They had used it. Kenny
5 King had used it, but I had no reason to use
6 it for that day anyway. You know, the day
7 before, on that Friday I know they had it
8 because I saw it. And him and the welder
9 went out and checked the lights for the
10 weekend.

11 Q. Is that typical, though, when the skiff's in
12 service don't you use it on at least a daily
13 basis?

14 A. Yeah, if I need it, yeah. Unless the
15 captain's on it and he's running errands
16 anyway, he'll run over whoever wants to come
17 aboard or whatever parts we need. Like I
18 said, that day, I know that Friday before him
19 and Frankie Pilate went out to check the
20 lights. Because you always check the lights
21 daily so no fishing boats run over the wire.

22 Q. And what lights are these that you're
23 referring to?

24 A. The lights on the buoys over the anchors.

1 Q. To alert?

2 A. To alert any boats coming through not to run
3 over my cables.

4 Q. When the skiff returned to service, was there
5 any conversation amongst the workers
6 regarding that?

7 A. No, just, you know, it was back that was it.

8 Q. Even casually, oh, good, the skiff's back.
9 We don't have to take the tug anymore, that
10 sort of thing?

11 A. No, just the skiff was back, that was it. I
12 mean, it was nice having it back, yes.

13 Q. And the day you got hurt was the first day
14 that you had been in the skiff since it had
15 gone off for repairs?

16 A. Yeah, that was the first day I had been back
17 on it.

18 Q. But Kenny King had been on it before you?

19 A. Right.

20 Q. Had anybody else been on it before you?

21 A. I believe the other deck hand had been.

22 That's what I was told any way. I don't know
23 for a fact but that's what I was told.

24 Q. Was that Frank --

1 A. Well, I know Frank because I saw him on it.
2 But they said the other kid Davie Bell, he
3 was on it.

4 Q. And he's a deck hand on the tug?

5 A. Right.

6 Q. So the guys on the tug, if they want to do an
7 errand, they take the skiff as well?

8 A. It's just easier that way, sure.

9 Q. So you grab the safety man and yourself and
10 you got into the skiff?

11 A. Right. He grabbed me and said, hey, you
12 want to bring me ashore, I want to go get
13 lunch.

14 Q. And you had already given him your lunch
15 order?

16 A. I hadn't. And I said, here, on the way over
17 -- I gave him money and I said get my a roast
18 beef and whatever it was. And that was it.

19 Q. And you're operating the skiff?

20 A. Right.

21 Q. And he's --

22 A. He's on the bow.

23 Q. He's on the bow.

24 A. Right. Waiting for me to go. There's a

1 ladder system on the wall.

2 Q. Of the barge?

3 A. No, on the -- it's a sea wall actually.

4 Q. Where you're working you said?

5 A. Right. When you go to get to shore.

6 Q. Right.

7 A. There's a sea wall with a ladder and that's
8 how he got up. I brought him to that and he
9 went up and went to lunch.

10 Q. And the skiff, you just stepped from the
11 barge into the skiff?

12 A. Right.

13 Q. From the barge where you were working?

14 A. Right. There's two stairs. You climb down
15 two metal running stairs.

16 Q. That's what I thought you were saying.

17 And as far as operating the skiff to
18 take him ashore for the lunch run, he doesn't
19 have any responsibility, does he?

20 A. No.

21 Q. I mean, the skiff's small enough, you operate
22 it by yourself?

23 A. Right.

24 Q. And this is a typical -- what's the size of

1 the skiff?

2 A. I can't remember. Maybe 18, 22 foot.

3 Q. And what's the construction of the hull?

4 A. Steel.

5 Q. It has an outboard engine?

6 A. Right.

7 Q. Outboard motor?

8 A. Right.

9 Q. And you took him to the sea wall that you
10 mentioned without any kind of problem?

11 A. Right.

12 Q. And at that point at least you didn't have
13 any complaints?

14 A. I had no problem, right.

15 Q. No problems?

16 A. Right.

17 Q. Then what happened?

18 A. And then I was headed back to the dredge and
19 that's when the superintendent, I heard him
20 yelling and told me to come over.

21 Q. And what did he yell, just hey?

22 A. Hey, come over. He had the parts that we
23 needed. So I went back to the sea wall and I
24 loaded up the bolts and stuff we needed and

1 the equipment.

2 Q. Just so I get an idea. How far is that then
3 from -- you head back?

4 A. 45, maybe 50 feet. It wasn't -- maybe --
5 maybe a hundred feet, you know. It wasn't
6 that far. You can throw a rock and hit it.
7 For reference.

8 Q. So you turn around --

9 A. And I go back.

10 Q. -- and head back to see the supervisor?

11 A. Right.

12 Q. And the supervisor's name is what?

13 A. I think it's Nick Wagner. I believe that's
14 it. I could be wrong.

15 Q. That's a guy you knew before that day?

16 A. Yeah, yeah.

17 Q. And you turned the boat back to the sea wall?

18 A. Right.

19 Q. To get the parts?

20 A. Right.

21 Q. Where was he located when you arrived at the
22 sea wall?

23 A. He was on top. He was on top of the sea
24 wall waiting for me.

1 Q. How high is the sea wall?

2 A. I'd say ten feet and because it was low
3 water at the time.

4 Q. And you said there's a ladder?

5 A. Right.

6 Q. That's how you get --

7 A. That's how you get up and down, right.

8 Q. And then what happened?

9 A. I -- he handed down the bolts to me, I
10 loaded them on the bow.

11 Q. How did he hand them down to you?

12 A. I just reached up.

13 Q. You're still on the skiff now?

14 A. I'm still on the skiff now.

15 Q. And he's ten feet above you?

16 A. More or less ten feet. You climb up. I
17 nose in to the sea wall and I keep it in gear
18 so the boat stays steady right there and then
19 I climb up a couple rungs and I grab them and
20 put them down. I grab another one and I put
21 them down.

22 Q. Just so I understand this now --

23 A. Right.

24 Q. -- the skiff is right next to the ladder?

1 A. The ladder is -- you're on the -- I was on
2 the right side of the ladder.

3 Q. As you're facing it?

4 A. Right.

5 Q. And --

6 A. I had the throttle going on the engine to
7 hold the boat in place.

8 Q. And is the skiff actually touching the sea
9 wall?

10 A. Yes.

11 Q. Or the ladder? The sea wall?

12 A. The sea wall.

13 Q. And you've got the throttle --

14 A. On.

15 Q. -- on. To keep the boat forward?

16 A. Forward, right.

17 Q. And then you climb up?

18 A. I didn't actually climb up. I had one foot
19 on the skiff and another foot on the rung.
20 And he just handed them down to me and I just
21 loaded them on the bow.

22 Q. So you had one foot on the -- I'm just trying
23 to vision this. Was it your left foot?

24 A. My right foot.

1 Q. On the skiff?

2 A. Right.

3 Q. Your left foot on the first rung of the
4 ladder.

5 A. Right.

6 Q. And you're reaching up?

7 A. And I'm reaching up and grabbing them and
8 putting them down on the bow.

9 Q. And are they packages or boxes?

10 A. Boxes.

11 Q. How heavy is each box?

12 A. 75 pounds maybe.

13 Q. Fairly heavy then?

14 A. Yeah, 75 pounds maybe. Maybe 50.

15 Q. But you didn't have any problem with the
16 weight of the boxes?

17 A. No.

18 Q. This is something you've done before?

19 A. Right, right, all the time.

20 Q. How many boxes were there, do you know?

21 A. Maybe five. I don't know, I can't remember
22 how many.

23 Q. Were you able to get all the five boxes onto
24 the skiff?

1 A. Right.

2 Q. No problems?

3 A. No.

4 Q. Then what happened?

5 A. And then I backed away and started heading
6 for the dredge.

7 Q. Okay.

8 A. Then the boat stalled.

9 Q. It just stalled right out?

10 A. Stalled right out, right.

11 Q. How far away from the sea wall were you when
12 it stalled out?

13 A. 20, 25 feet.

14 MR. MURPHY: Would this be a time to
15 take five minutes?

16 MR. ROSENTHAL: Sure.

17 (A short recess was taken.)

18 Q. The vessel stalled, the skiff stalled, right,
19 that's where we left off?

20 A. Yep.

21 Q. How far from shore were you?

22 A. I would say 20, 25 feet I would say.

23 Q. From the sea wall?

24 A. From the sea wall, right.

1 Q. So what happened?

2 A. I tried to get it started and I couldn't.

3 Q. What did you do to try to get it going again?

4 A. I -- there's a ball on it for fuel and I
5 tried to pump it to get the pressure back up
6 and it didn't go. So I, I was lucky the tide
7 was going out, headed towards the dredge, the
8 tide was headed that way. So I just went and
9 I leaned up against the stern of the dredge.

10 Q. So you let the vessel drift to the back to
11 the dredge?

12 A. Back to the dredge, right.

13 Q. When you stalled off, you stalled out, you're
14 25 feet from the sea wall?

15 A. Yeah, more or less, right.

16 Q. Did you yell to the supervisor?

17 A. No, he was already on his way.

18 Q. Was there anybody --

19 A. There was no one there. The only one that
20 saw me once I got close enough, because I
21 yelled to him, was Frankie Pilate who was
22 welding on the back deck. And he came and he
23 grabbed the line for me and tied it off.

24 Q. How long did it take you to drift from the

1 sea wall?

2 A. Not very long. Five minutes tops. And I
3 mean that's playing with it, trying to get it
4 fired up the whole time.

5 Q. What's the distance from where you stalled
6 out to back to the barge?

7 A. Anywhere from, I don't know, 50 feet, a
8 hundred feet maybe. I don't even know.
9 Somewhere around there. It wasn't that far.

10 Q. Where you stalled out, could you have yelled
11 out to the fellows on the barge?

12 A. No, not at first.

13 Q. Because you were too far away?

14 A. Well, mean I probably could have because I
15 knew where I was headed and I was safe.

16 Q. As you got closer, did you yell to them or
17 signal them?

18 A. I yelled to Frankie Pilate.

19 Q. And he was on the --

20 A. He was on the stern.

21 Q. Of the barge?

22 A. Right. Of the dredge.

23 Q. Then what happened?

24 A. When I landed, I threw him a line and he

1 tied it off for me.

2 Q. What did he tie it off to?

3 A. To a cleat.

4 Q. On the dredge?

5 A. On the dredge.

6 Q. Then what happened?

7 A. And then I took the engine cover off to see
8 if I could get it going and I pumped it up
9 some more, and I did get it running, and then
10 it stalled again. And then I got it running
11 again and it continued to run. And I waited
12 and I was going to start passing the bolts up
13 and I said no, I'll just go around. And then
14 once I put it in gear, I left the line on
15 just to make sure because you don't want to
16 play. And then I, it stalled again so I just
17 said no, that's it. I took the cover back
18 off and then I went -- then the captain came
19 over and he said what are you doing? We need
20 these bolts on the other side.

21 Q. On the other side of what, the barge?

22 A. On the other side of the dredge, right.

23 Q. The dredge?

24 A. Right.

1 Q. Okay. Let me just back you up a little
2 because we went through that a little quick
3 then.

4 So you drift back to the dredge?

5 A. Right.

6 Q. You see Frank and you wave him down?

7 A. Right.

8 Q. And he gives you a hand tying the skiff to
9 the dredge?

10 A. I threw him a line and he tied me off,
11 right.

12 Q. And then you bored the dredge?

13 A. No.

14 Q. Tell me, you stay on the skiff?

15 A. I stayed on the skiff.

16 Q. And went to work on the engine?

17 A. Right.

18 Q. You took the cover off the outboard motor?

19 A. Right.

20 Q. And what specifically did you try and do?

21 A. I was just -- I wanted it to have air for
22 one and I squeezed a ball on the fuel tank.

23 Q. How did you try and give it air?

24 A. It will, yeah, because the fuel system goes

1 inside them and there's little filters. And
2 I wanted to make sure the little filters and
3 everything --

4 Q. So you're pretty familiar with these --

5 A. Absolutely.

6 Q. -- with these outboard motors?

7 A. Right.

8 Q. And that's just based on your years as a
9 maritime worker?

10 A. Right. I live on the water.

11 Q. So you felt well qualified to do the job you
12 were doing at the time?

13 A. I didn't do anything. I just pumped it up
14 and that's what you do.

15 MR. ROSENTHAL: Objection to form.

16 Q. And then you tried to get it going again?

17 A. Right.

18 Q. But you left it tied onto the dredge?

19 A. Right.

20 Q. And eventually you succeeded in getting it
21 going again?

22 A. It did run, yeah, it was running.

23 Q. And then it stalled out again?

24 A. The second time it stayed running at an

1 idle. It wasn't in gear of course.

2 Q. The first time it stalled out?

3 A. Right.

4 Q. Did you have an opinion as to why it stalled
5 out?

6 MR. ROSENTHAL: Objection.

7 A. I just figured it needed more fuel. I just
8 pumped the ball up. It stayed running so I
9 assumed that's what it was.

10 Q. The second time?

11 A. Right.

12 Q. And then take me through it again, then what
13 happened?

14 A. And then it kept running. So then Kenny
15 King said hey, I need you to come around the
16 other side of the dredge so we can get these
17 bolts off so we can hook up the shanks.

18 Q. Is that what he specifically told you?

19 A. Yeah. Well, not word for word.

20 Q. Right.

21 A. Right.

22 Q. Did Kenny King at that time know that the
23 vessel stalled out when you --

24 A. Yes.

1 Q. Out by the sea wall?

2 A. Yes.

3 Q. How did he know that?

4 A. Because I told him.

5 Q. You had a conversation?

6 A. Right.

7 Q. You said hey, this thing stalled out?

8 A. This thing is stalling out, wait.

9 Q. What did he say to you?

10 A. And he said I need this around here now.

11 Not in those exact words.

12 Q. Well, you told him that the vessel stalled
13 out on your way back from the sea wall?

14 A. Right.

15 Q. And then you told him that you had gotten
16 it --

17 A. I told him it had stalled out again. And he
18 said, I don't care. I need those over there
19 now.

20 Q. At the time that you had this discussion with
21 Kenny King, the motor's running, though,
22 right?

23 A. Right.

24 Q. And it didn't stall out the second time?

1 A. No.

2 Q. So when you say he said, I don't care, bring
3 that around now, I mean, you didn't have any
4 concern with bringing the vessel around?

5 MR. ROSENTHAL: Objection.

6 A. It was still running.

7 Q. That's right. So I'm --

8 A. Right, right.

9 Q. So at that time at least you didn't have any
10 concern bringing the skiff over to the other
11 side of the dredge?

12 MR. ROSENTHAL: Objection.

13 A. No.

14 Q. No concern?

15 MR. ROSENTHAL: Objection.

16 A. No.

17 Q. So this, when you just said a moment ago that
18 Kenny King said I don't care, bring it
19 around --

20 A. Right.

21 Q. -- is that what he said, I don't care because
22 he would have --

23 A. Because I told him I wasn't bringing it
24 around right yet. I want to make sure it

1 wasn't going to stall. You let an engine
2 run. Because what had happened, I had run it
3 all the way over to the wall and all the way
4 back, and what I figured, it will sucking up
5 air and then it will starve it of fuel. And
6 that's what I figured was happening. So I
7 let it sit there. And he said, I don't care,
8 get it around there, I want to get these
9 bolts.

10 Q. So at that time did you think there was a
11 risk that the vessel was going to stall
12 again?

13 MR. ROSENTHAL: Objection.

14 A. I wasn't sure. It wasn't stalling. I
15 waited.

16 Q. Oh, you waited?

17 A. Like I told him, I waited. Yeah. And then
18 we had words.

19 Q. Right.

20 A. Right. Which I won't mention the words.
21 And then he untied my vessel and threw the
22 line in and said get that over there now.

23 Q. Okay. So Kenny King said I want the vessel
24 over there now.

1 A. More than once.

2 Q. And you said you wanted to keep the vessel
3 there to see it -- to let it run for a while?

4 A. To let it run, right. Until I felt it was
5 safe and then I did feel it was safe. And at
6 first he threw the line in and I said I'm not
7 going anywhere right now.

8 Q. So you didn't listen to him?

9 A. The first time?

10 Q. Right.

11 A. Right.

12 Q. Then what happened the second time?

13 A. I moved it. I backed it up.

14 Q. Why did you move it the second time?

15 A. It was running, so I backed it up.

16 Q. So you thought it was safe to move it when
17 you moved it?

18 A. Yeah. It --

19 MR. ROSENTHAL: Objection.

20 A. -- it hasn't stalled.

21 Q. I want to make sure. If Kenny King or
22 anybody else for that reason tells you to do
23 anything that you think is unreasonably safe
24 you're not going to do --

1 MR. ROSENTHAL: Objection.

2 A. I'm not going to do it.

3 Q. And that's so when Kenny King told you to
4 move the vessel the first time, the skiff --

5 A. Right.

6 Q. -- you didn't think it was safe to do it so
7 you didn't?

8 A. I didn't, right.

9 Q. But when you did move it, you thought it was
10 safe to move?

11 A. Right.

12 Q. And then you were bringing the skiff around
13 to the other side of the dredge so that --

14 A. No.

15 Q. You tell me, I'm sorry.

16 A. No, I had to back away. I have two wires on
17 the stern as I told you, the wires that move
18 the dredge back and forth.

19 Q. Right.

20 A. You can't go under them. You have to back
21 away from them and then go around them. And
22 that's what I did.

23 Q. So you're backing up?

24 A. Backing up through the wires.